

1 production of documents. And I am going to show
2 you --

3 MR. HARKRADER: There are two copies
4 of each.

5 MR. SHOOK: Off the record.

6 (Discussion was held off the record.)

7 BY MR. SHOOK:

8 Q. All right, I should probably start
9 over with my rather long-winded question.

10 A. Okay.

11 Q. You have in front of you now a set of
12 tax returns for the years 1999, 2000 and 2001 --
13 one for Business Options, Inc. and the other
14 being for U.S. Bell, Inc. And I am not going to
15 mention specific figures here, but I take it you
16 will note and agree with me that with respect to
17 Business Options, there was a decrease in each of
18 the three years, '99, 2000 and 2001.

19 A. Yes.

20 Q. And conversely, the U.S. Bell tax
21 returns reflect increases for each of those three

1 years. So that by the time we reach 2001, the
2 gross receipts for U.S. Bell appear to be
3 somewhere on the order of 30 times greater than
4 that for Business Options, Inc.

5 A. Uh-huh.

6 Q. And considering that you had indicated
7 the customers were virtually all Business
8 Options, Inc. Customers --

9 A. Uh-huh.

10 Q. -- and not U.S. Bell customers, I was
11 wondering if you could provide some explanation
12 as to the differences we can see in the 2001 tax
13 returns for the two companies, Business Options
14 and U.S. Bell?

15 A. The U.S. Bell gross income was
16 probably the combined income of our long-distance
17 customer base and then there was money paid back
18 to Business Options for the use of the
19 certifications and whatnot.

20 Interestingly enough, this is
21 something that we recently have been reviewing --

1 preparing tax returns to the states for the
2 reporting of Business Options. We have been
3 filing our Business Options reports in each of
4 the different states based on the
5 telecommunication revenues. So we have been
6 reporting our telecommunication revenues on
7 Business Options tax returns. If you added up
8 all the different states, it would show an income
9 equal or similar to the U.S. Bell total income.
10 So we have been ensuring that whatever taxes we
11 had to pay throughout the different states was
12 being paid under telecommunications.

13 I don't know if that's where you were
14 headed. But from the advice of our accountants,
15 having the relationship where whatever company we
16 had, whether it's Avatar or U.S. Bell or Business
17 Options, having the income -- the majority of the
18 income at one company was a more accurate picture
19 of what our business is as opposed to
20 proportionate amount to Business Options, a
21 portion to Avatar, and a part to U.S. Bell -- or

1 not Buzz Telecom. So the employees at this time
2 were employed by U.S. Bell, producing sales on
3 behalf of Business Options, so the expenses were
4 U.S. Bell's expenses.

5 Anyway, from a tax standpoint in
6 consultation with our accountants, they felt this
7 provided the most accurate picture -- financial
8 picture to the IRS of what our receipts were.

9 Does that answer your question?

10 Q. I think so.

11 A. Okay.

12 Q. My question was rather long-winded and
13 convoluted, so --

14 A. Okay.

15 Q. And I am not accusing you of answering
16 in the same fashion --

17 A. Okay.

18 Q. -- but you had to deal with the
19 question as it was.

20 A. Okay.

21 Q. So as I understand, as well as I can,

1 the situation in 2001 -- Well, for the year 2001,
2 the customers that paid in the money to Business
3 Options, that money appears, by and large, as the
4 gross receipts for U.S. Bell?

5 A. Correct.

6 Q. And that U.S. Bell in turn had some
7 contractual arrangements with Business Options,
8 and so a portion of the money that was paid into
9 U.S. Bell was in turn paid to Business Options
10 pursuant to that contractual arrangement?

11 A. Yes.

12 Q. And the employees that marketed
13 Business Options products were paid by U.S. Bell?

14 A. Correct.

15 Q. Now, do you have any -- With respect
16 to looking at the 2001 tax returns for U.S. Bell
17 and focusing on the gross receipts figure, do you
18 have any knowledge as to the percentage of that
19 money that was a result of intrastate
20 long-distance?

21 MR. HAWA: We will probably have to

1 get back to you on that one.

2 A. I could only guess at it.

3 Q. What I didn't know, and the purpose of
4 the question was, whether or not your income
5 reports as a general matter were broke up as to
6 what was intrastate revenues as opposed to
7 interstate revenues.

8 A. I don't know. This is just taken off
9 of the total deposits that we make. We do get
10 reports from our billing company, and that is
11 what Mr. Brzycki used to file -- our different
12 reports around the different states. That would
13 break out by each state, and it would break out
14 by intrastate or interstate.

15 Q. For example, you indicated that you
16 had to send checks to the various states --

17 A. Yes.

18 Q. -- for the Universal Service Fund?

19 A. Yes.

20 Q. And in order to do that, you would
21 have to be able to break out what was

1 intrastate --

2 A. Yes.

3 Q. -- revenues with respect to that
4 particular state --

5 A. Yes.

6 Q. -- as opposed to the total revenues
7 that came in from customers in that state?

8 A. Yes.

9 Q. So whatever the difference would be
10 would presumably be the interstate revenues that
11 they have --

12 A. Yes.

13 Q. -- or perhaps international revenues
14 that they have?

15 A. Yes.

16 Q. Because I understand the product you
17 sold also included an international element?

18 A. Yes, that's correct -- what you just
19 said. This is total revenue, and the accountant
20 would have those figures, and he would turn them
21 in to Mr. Brzycki. He did not go into our

1 accounting software to generate his reports for
2 the returns that he filed. He went right onto
3 our USBI software, which provides all that
4 information. You can run it by day, by month or
5 by year. And that's how he would generate his
6 reports.

7 Q. So Mr. Brzycki would have to look at
8 something that was supplied by USBI --

9 A. Right.

10 Q. -- and then work from there --

11 A. Right.

12 Q. -- and then in turn give you the
13 information that you needed for the checks that
14 you were signing?

15 A. Right. He would fill out all that
16 information and submit it with the request, and
17 then the check would be there. I would send the
18 check and sign the form -- or he would sign the
19 form, I guess, in most cases. Those two things
20 would be the same. The total from the USBI
21 reports -- they would match the total of the

1 gross receipts.

2 Q. Does Business Options, Inc. still
3 offer what has been called a "super-saver" plan
4 to prospective customers?

5 A. Yes.

6 Q. Could you describe briefly what that
7 super-saver plan involves?

8 A. It's roughly 20 percent below what
9 AT&T charges. And I think AT&T is somewhere
10 around 7 cents, and we are about 7.9 cents per
11 minute intrastate. And then interstate would be
12 different, depending on the state. Then there
13 are monthly fees associated with that.

14 Q. The interstate charge will vary from
15 state to state --

16 A. Yes.

17 Q. -- pursuant to a tariff?

18 A. Yes. It's based on what we are
19 charged by the underlying carriers, and we mark
20 it up.

21 Q. Now, in terms of sales scripts for a

1 super-saver plan, what information, if any, is
2 provided to prospective customers relative to the
3 intrastate charges that would be levied?

4 A. I don't know that the super-saver
5 plan -- I don't know what information, if any, is
6 provided to prospective customers relative to the
7 intrastate charges that would be levied. I don't
8 know that the super-saver script discusses the
9 intrastate rate.

10 Q. Do you have any knowledge as to
11 whether the verification script mentions in any
12 way the intrastate charges that will be levied?

13 A. I thought it did, but I am not for
14 certain at this point.

15 Q. In other words, if we have a
16 verification script, it says what it says?

17 A. Yes.

18 Q. If it mentions intrastate fees --

19 A. Yes.

20 Q. -- it does. And if it does not --

21 A. Right.

1 Q. -- then it wasn't mentioned?

2 A. Right.

3 Q. Now, you have probably mentioned this,
4 and I am getting a little confused in my own
5 mind, but does Buzz Telecom, as Buzz Telecom,
6 offer a super-saver plan?

7 A. It's not offering anything right now.

8 Q. So all the offerings that are being
9 made are still Business Options?

10 A. Yes.

11 MR. SHOOK: Okay. I have reached a
12 break point. There are some other areas I want
13 to cover, but I think this would be a good place
14 to break for lunch.

15 (Thereupon, a luncheon recess was
16 taken at 12:15 p.m.)
17
18
19
20
21

1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (1:00 p.m.)

3 EXAMINATION (cont'd.)

4 BY MR. SHOOK:

5 Q. Mr. Kintzel, I am going to show you a
6 document, and I am not sure if it's complete.
7 But I am hoping that you can give me an idea of
8 that it is that we are looking at here. Most of
9 the pages bear a bates stamp number, which
10 appears down at the bottom right. Oh, the first
11 page does as well. So it starts at 05201 and
12 continues to 05323 in terms of what we have here.

13 A. Okay. Is there any particular page
14 that you want me to look at?

15 Q. Basically, I wanted you to scan the
16 document so you have an understanding of what it
17 is you are looking at so that I can ask you a
18 couple of questions about it. And when I ask
19 about a particular matter, I will give it back to
20 you, and we will focus on those.

21 A. Okay.

1 Q. From my quick review of the document,
2 it appears to be an application of some kind that
3 was sent to the State of Mississippi, and that it
4 was prepared sometime in 2002?

5 A. Yes.

6 Q. And from our earlier conversation, it
7 struck me that this kind of document was typical
8 of documents that had been prepared periodically
9 for Buzz Telecom or for Business Options when the
10 entity is seeking authority to do business in a
11 particular state?

12 A. Yeah.

13 Q. Now, with respect to the specifics of
14 this particular document, first of all, there is
15 a check that appears on page 05202.

16 A. Yes.

17 Q. And that signature appears to be that
18 of a Lisa Norman?

19 A. Yes.

20 Q. What role does Lisa Norman have with
21 respect to Buzz Telecom?

1 A. She is the director of disbursements.
2 She receives invoices and pays bills and writes
3 checks.

4 Q. And she has had that role for
5 approximately how long?

6 A. I don't know.

7 Q. Did she have a role similar to that
8 with Business Options, Inc.?

9 A. No. She has been with us for less
10 than a year, I think.

11 Q. Now, at page 05203 there is an
12 unsigned letter that bears your name, and I was
13 wondering if you knew anything about this letter.

14 A. I don't recall seeing it, but --

15 Q. Okay. Now, in terms of the initials
16 that appear between the word "enclosure" and the
17 place where you should have signed, if you had
18 signed, it looks like "LG." Would it be fair to
19 assume that's probably Lisa Green?

20 A. Yes.

21 Q. And that this letter on Buzz Telecom

1 letterhead, dated January 7, 2003, would be the
2 kind of letter that Lisa would have authority to
3 prepare?

4 A. Yes.

5 Q. And there is an attachment that
6 appears that references "management, technical
7 and financial qualifications," and that is on
8 pages 05203.

9 A. Uh-huh.

10 Q. And what appears to follow are
11 questions and answers. And the answers reflect
12 that you were the person who was answering.

13 A. Uh-huh.

14 Q. So with respect to the pages that
15 begin on 05205 and continue to 05211 -- if you
16 could, please just take a moment to look through
17 those.

18 A. Okay.

19 Q. And the question I have for you is
20 what role, if any, did you have in preparing the
21 material that appears on these pages?

1 A. Your question was?

2 Q. What role, if any, did you have in
3 preparing what appears to be your answers to
4 questions posed.

5 A. I supplied the information on myself,
6 and I don't know if I provided it specifically
7 for this Mississippi application or if it's one
8 they have used over and over again. But most of
9 these questions are similar to questions that we
10 would receive on any document. I don't know if
11 in particular to this document if I generated
12 these answers. I did not type these in. I don't
13 know if Miss Green consulted with me or not.

14 Q. Why don't you take each question as it
15 appears -- and if you could, read the question
16 into the record, and then simply state whether
17 the answer provided is accurate or not.

18 A. Okay.

19 Q. If it's not, if you could please, you
20 know, provide whatever information is needed in
21 order to make it accurate.

1 A. Okay. "Pleasant state your name and
2 address." This is on page 05205. The answer is
3 correct. "What is the purpose" -- that's fine.

4 Q. Okay.

5 A. Page 05206 -- "Please explain the
6 nature of Buzz Telecom's business." I think Buzz
7 Telecom is a Nevada corporation, if I am not
8 mistaken.

9 Q. I believe there is a document, which
10 we will get to later, that reflects it's a Nevada
11 corporation.

12 A. Okay. I am not sure what this is in
13 reference to Order 92-UA-227.

14 Q. How does the sentence read?

15 A. It says, "Applicant plans to offer
16 straight interstate by including this Order
17 92-UA-227."

18 Q. All right. So what you are saying is
19 you are not certain about whatever that order
20 was?

21 A. Yes, correct.

1 Q. Okay.

2 A. As far as the list of states that we
3 are authorized to sell in, I am assuming that
4 this is correct.

5 Q. As of the point in time when this list
6 was prepared?

7 A. It looks okay, but --

8 Q. All right. And just to interject at
9 this point, do you have any knowledge as to who
10 prepared the answers that you are looking at
11 right now?

12 A. I would think it would be Lisa Green
13 or Shannon Dennie.

14 Q. So those are the two people we should
15 probably follow up with on this?

16 A. Yes.

17 Q. Okay.

18 A. The next question is, "Please describe
19 Buzz Telecom system's" -- the answer looks fine.

20 Q. Okay.

21 A. The next question is what operator

1 assistance and other services does Buzz Telecom
2 propose to offer customers in Mississippi. I
3 don't know who offers the operator toll
4 assistance. I would imagine that's the
5 underlying carrier.

6 Q. How does the answer read now?

7 A. It just gives the different services
8 that we propose to offer, which would include
9 1-800 calling cards, operator toll assistance and
10 directory assistance. So operator toll, I would
11 change the 800 number to toll-free service.

12 Q. Okay.

13 A. The next question is, "Does your
14 company charge for incomplete calls," and the
15 answer looks fine.

16 "How does your company deal with
17 consumer complaints," that's the next question.
18 The answer is a little bit short. It describes
19 our customer service. But it doesn't get into if
20 they are not satisfied with our customer service,
21 then Miss Green would be the person that would

1 work with the consumer to get it fully resolved.

2 Q. Okay.

3 A. The next question is, "How are
4 requests for information on rates and services
5 handled by your company." That answer looks
6 fine.

7 The next question is, "In your
8 opinion, does Buzz Telecom have managerial staff
9 to operate the proposed system in Mississippi."
10 That answer looks fine.

11 Q. Okay.

12 A. "Please describe Buzz Telecom's
13 technical ability to operate the system in
14 question." The answer is a little bit short, but
15 it says -- what it says is accurate.

16 The next question is, "Please
17 summarize the financial condition of Buzz
18 Telecom." And attached is Exhibit C. I have not
19 reviewed that, so I can't really comment.

20 The next question is, "What positive
21 benefits would flow to the public of Mississippi

1 from the certification of Buzz Telecom." That
2 answer looks fine.

3 The next question, "Please summarize
4 your testimony." That answer looks fine.

5 The next question, "Are you familiar
6 with the allegations contained in the application
7 filed in this case." I am not sure which
8 allegations it's referring to at this time.
9 Maybe I did at this point.

10 The next question is, "Are the
11 statements contained in this application true and
12 correct to the best of your knowledge,
13 information and belief." The answer is fine.
14 The answer says, "Yes." So other than the things
15 I already went over here, yes.

16 Q. Okay.

17 A. "Do you accept all allegations made in
18 this application as your additional testimony in
19 this case?" Same answer that I just gave.

20 Q. Okay.

21 A. "Does this conclude your testimony?"

1 Yes -- that's fine.

2 Q. Typically when Lisa Green prepares a
3 tariff filing, who sees it before it actually
4 leaves Business Options' offices -- or Buzz
5 Telecom's offices?

6 A. At this time, I do. That has not
7 always been the case up until, actually, maybe
8 three months ago. I have now started reviewing
9 every document that leaves our office out of our
10 regulatory area. I find silly mistakes in lots
11 of them.

12 An example is we were applying to
13 provide -- or to get certified in some state --

14 (Inaudible discussion between witness
15 and Mr. Hawa.)

16 MR. HAWA: Go ahead.

17 A. Anyway, at this time, I just made the
18 decision where I would review all the documents.
19 This was probably within the last three months.
20 Prior to that, for the majority of the time we
21 were in business, Mr. Brzycki reviewed the

1 documents and sent them on their way. If there
2 was a place for me to sign, he would normally
3 have a sticky note with an arrow or something
4 where I would sign. I probably should have
5 reviewed all the documents very carefully, but I
6 did not do so. In between the time that Mr.
7 Brzycki departed and up until about three months
8 ago, I reviewed some documents, and some I
9 didn't.

10 Q. And with respect to the documents you
11 did not review, what would be your understanding
12 in terms of who reviewed those documents before
13 they left the offices of Buzz Telecom or Business
14 Options?

15 A. Miss Dennie.

16 Q. Miss Dennie?

17 A. Yes, and Miss Green.

18 Q. They would prepare them in the first
19 instance --

20 A. Yes.

21 Q. -- and Miss Dennie would review them

1 before they left the building?

2 A. Yes.

3 Q. With respect to the description of
4 yourself that appears on bates page 05211, the
5 first sentence where you talk about your being a
6 graduate of the Hubbard College, et cetera. What
7 college is that?

8 A. It's a college in Los Angeles. It's a
9 college that offers management courses. I went
10 to Indiana University for four years. After four
11 years of business school, I wasn't able to
12 utilize a lot of the education that I received
13 from the business school at Indiana University
14 and had taken a couple of courses at the Hubbard
15 College out in California and found it very
16 valuable and things that I could actually use for
17 my business. So then I followed that up with
18 going through their executive director course,
19 which is similar to a CEO course on how to be a
20 CEO.

21 Q. So it's a graduate school of sorts for

1 business?

2 A. When I think of graduate school, I
3 think of Northwestern. It's not a Northwestern.

4 MR. HAWA: Are you asking whether it's
5 an accredited school?

6 Q. That would be one question.

7 A. I believe it is an accredited college
8 out in California. They offer courses on
9 management by statistics, how to increase
10 efficiency in your company, how to do financial
11 planning. They are courses you can take and
12 actually apply in a business compared to basic
13 courses at Indiana University, which would be
14 more theoretical in nature. I think at one time
15 we studied at IU case studies between McDonald's
16 and Burger King. This was nice information and a
17 good exercise, but this was not something that
18 would apply in actual business when trying to
19 turn stats around. We may have taken a course in
20 financial planning, but how do you actually do
21 that?